

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18707. Public Generally.

(a) Introduction.

Notwithstanding a determination that the reasonably foreseeable financial effect of a governmental decision on a public official's economic interests is material, a public official does not have a disqualifying conflict of interest in the governmental decision if the official can establish that the governmental decision will affect the public official's economic interests in a manner which is indistinguishable from the manner in which the decision will affect the public generally as set forth in 2 Cal. Code Regs. sections 18707.1-18707.9.

(b) Steps to Determine Application of Public Generally. To determine if the effect of a decision is not distinguishable from the effect on the public generally as set forth in subdivision (a) of this regulation, apply Steps One through Four:

(1) Step One: Identify each specific person or real property (economic interest) that is materially affected by the governmental decision.

(2) Step Two: For each person or real property identified in Step One, determine the applicable "significant segment" rule according to the provisions of 2 Cal. Code Regs. section 18707.1(b).

(3) Step Three: Determine if the significant segment is affected by the governmental decision as set forth in the applicable "significant segment" rule. If the answer is "no," then the analysis ends because the first prong of a two-part test set forth in 2 Cal. Code Regs. section 18707.1(b) is not met, and the public official cannot participate in the governmental decision. If the answer is "yes," proceed to Step Four.

(4) Step Four: Following the provisions of 2 Cal. Code Regs. section 18707.1(b)(2), determine if the person or real property identified in Step One is affected by the governmental decision in "substantially the same manner" as other persons or real property in the applicable significant segment. If the answer is "yes" as to each person or real property identified in Step One, then the effect of the decision is not distinguishable from the effect on the public generally and the public official may participate in the decision. If the answer is "no" as to any person or real property identified in Step One, the public official may not participate in the governmental decision unless one of the special rules set forth in 2 Cal. Code Regs. sections 18707.2 through 18707.9 applies to each person or real property triggering the conflict of interest.

(c) For purposes of Government Code section 87102.5 (Members of the Legislature) and Government Code section 87102.8 (elected state officers), Government Code section 87102.6(b)(2) applies.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87103, Government Code.

HISTORY

1. New section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
2. Editorial correction of 1 (Register 2000, No. 25).
3. Amendment filed 1-16-2001; operative 2-1-2001. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer*, Sacramento Superior Court, Case No. 51275 (1991); Third District Court of Appeals, 3 Civil C010924 (1992) (Register 2001, No. 3).

4. Amendment of subsections (a) and (b)(2)-(4) filed 12-20-2005; operative 1-19-2006.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third District Court of Appeal, unpublished decision, 1992. (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements.) (Register 2005, No. 51).